

The Honorable Robert S. Lasnik

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

EMERI HANSEN,

Plaintiff,

v.

RUI ONE CORP., a foreign corporation;  
and RESTAURANTS UNLIMITED,  
INC., a Washington corporation;

Defendant.

No. 07-1971

**ANSWER AND AFFIRMATIVE  
DEFENSES**

COMES NOW Defendants RUI One Corp. and Restaurants Unlimited, Inc. (collectively "Defendants"), by and through the undersigned counsel of record, and answers Plaintiff's Complaint as follows. Each allegation not specifically admitted shall be deemed denied.

**I. NATURE OF ACTION**

1.1 The allegations in paragraph 1.1 consist of legal conclusions to which no response is required.

**II. JURISDICTION AND VENUE**

2.1 Admitted.

2.2 Admitted.

ANSWER AND AFFIRMATIVE DEFENSES - (No. 07-1971) - 1

4826-5922-2530.02

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2.3 Defendants admit that the Court has personal jurisdiction over Defendants and over the subject matter of this lawsuit. Defendants admit that Defendants' corporate offices are located in the Western District of Washington and that venue is proper with regard to Defendants. Defendants admit that Plaintiff was employed by RUI ONE Corp. in the Western District of Washington. Defendants deny that Plaintiff was employed by Restaurants Unlimited, Inc. The remainder of the allegations in paragraph 2.3 are denied for lack of information or knowledge.

### III. PARTIES

3.1 Defendants admit on information and belief that Plaintiff resides within the Western District of Washington. Defendants admit that Plaintiff was employed by RUI ONE Corp. from March 18, 2004 through on or about October 17, 2005. Defendants deny the remainder of the allegations in paragraph 3.1.

### 3.2 Admitted.

3.3 Defendants admit that Restaurants Unlimited, Inc. is a Washington Corporation. Restaurants Unlimited, Inc. is a holding company, which is the parent corporation of RUI ONE Corp. Defendants admit that the principal place of business for Restaurants Unlimited, Inc. is Seattle, Washington. Defendants deny the remainder of the allegations in paragraph 3.3.

3.4 Defendants admit that Mike Bryan was the Executive Chef of Palisade Restaurant from January 15, 2002 until March 25, 2005. Defendants admit that the position of Executive Chef is the highest supervisory position in the kitchen of each of RUI ONE Corp.'s restaurants. Defendants deny that the Executive Chef reports directly to the Corporate Office. Defendants admit that during the period from late October 2004 through March 25, 2005, Mr. Bryan was the highest level employee in food production at Palisade. Defendants admit that

1 when Plaintiff worked in food production at Palisade, Mr. Bryan was her  
2 supervisor. Defendants deny the remainder of the allegations in paragraph 3.4.

3 3.5 Defendants admit that Kraig Hansen transferred from the position of  
4 Executive Chef at Cutters Bayhouse to the position of Executive Chef at Palisade  
5 in approximately April, 2005. When Plaintiff was assigned to work in the kitchen  
6 at Cutters prior to this transfer, Mr. Hansen was her supervisor. Defendants admit  
7 that Kraig Hansen was employed by RUI ONE Corp. Defendants deny the  
8 remainder of the allegations in paragraph 3.5.

9 3.6 The allegations in paragraph 3.6 contain a naming convention within  
10 the Complaint which does not require a response.

11 IV. FACTUAL ALLEGATIONS

12 4.1 Defendants deny the allegations in paragraph 4.1 for lack of  
13 information or knowledge.

14 4.2 Admitted, except that Defendants did not promise that the Scarf  
15 Classification Program necessarily would be used as a method of on the job  
16 training and advancement in the corporation.

17 4.3 Denied.

18 4.4 Defendants admit the allegations contained in the first sentence of  
19 paragraph 4.4. Defendants admit that the "Executive Chef" is in charge of the  
20 kitchen, also known as the "back of the house," and influences advancement  
21 decisions regarding kitchen scarf classification. Defendants deny the remainder  
22 of the allegations in paragraph 4.4.

23 4.5 Defendants admit RUI ONE Corp. hired Ms. Hansen as a "pantry  
24 chef" at Cutters Bayhouse on or about March 18, 2004. Defendants admit that  
25 Ms. Hansen was assigned a yellow scarf when her employment began.  
26 Defendants deny the remainder of the allegations in paragraph 4.5.

1           4.6 Defendants admit that RUI ONE Corp. trained Plaintiff in the duties  
2 of a pantry cook. Defendants admit that in August, 2004, Plaintiff was promoted  
3 to the position of broiler cook and received a corresponding increase in her hourly  
4 wage. Defendants deny that Plaintiff was consistently directed to work overtime  
5 and off-the-clock scarf time. Defendants deny the remainder of the allegations in  
6 paragraph 4.6 for lack of information or knowledge.

7           4.7 Defendants deny the allegations contained in the first sentence of  
8 paragraph 4.7 for lack of information or knowledge. Defendants deny the  
9 allegations contained in the second sentence of paragraph 4.7 for lack of  
10 information or knowledge, except that Defendants deny that Plaintiff was ever  
11 trained to be a "sushi chef." Defendants admit that on occasion Plaintiff would  
12 stand in as a line lead. Defendants deny the remainder of the allegations in  
13 paragraph 4.7.

14           4.8 Defendants deny the allegations in paragraph 4.8 for lack of  
15 information or knowledge.

16           4.9 Denied for lack of information or knowledge, except that defendants  
17 admit that in approximately May, 2004 Plaintiff received her blue scarf.

18           4.10 Denied for lack of information or knowledge.

19           4.11 Denied.

20           4.12 Defendants admit that on November 27, 2004 Plaintiff transferred to  
21 Palisade to work on the banquet line. Defendants admit that Plaintiff also  
22 received an increase in her pay at this time. Defendants deny the allegations  
23 contained in the last sentence of paragraph 4.12 for lack of information or  
24 knowledge. Defendants deny the remainder of the allegations in paragraph 4.12.

25           4.13 Denied for lack of information or knowledge.

26           4.14 Denied for lack of information or knowledge.

1           4.15 Defendants admit that while working at Palisade, Plaintiff filled in on  
2 various shifts at Cutters Bayhouse. Defendants deny that Plaintiff continued to  
3 work off-the-clock hours within the Defendants' scarf classification program, at  
4 either Palisade or Cutters Bayhouse. Defendants admit that on at least one  
5 occasion, Attila Szabo, RUI ONE Corp.'s Chief Operating Officer, commented  
6 positively on Plaintiff's performance. Defendants deny the remainder of the  
7 allegations in paragraph 4.15 for lack of information or knowledge.

8           4.16 Denied for lack of information or knowledge.

9           4.17 Denied for lack of information or knowledge.

10          4.18 Denied for lack of information or knowledge.

11          4.19 Defendants admit that Plaintiff was scheduled to work from 1 p.m. to  
12 9 p.m. in the banquet department at Palisade on March 23, 2005. Defendants  
13 admit that Palisade was hosting a wine tasting dinner on the evening of March 23,  
14 2005. Defendants deny the remainder of the allegations in paragraph 4.19 for  
15 lack of information or knowledge.

16          4.20 Defendants deny the allegations in paragraph 4.20 for lack of  
17 information or knowledge.

18          4.21 Defendants deny that management had notice of Mike Bryan's  
19 conduct before the physical altercation between Plaintiff and Mr. Bryan or that  
20 anyone from management was present during the altercation. Defendants deny  
21 the remainder of the allegations in paragraph 4.21 for lack of information or  
22 knowledge.

23          4.22 Defendants admit that RUI ONE Corp. management received  
24 reports that Mr. Bryan inappropriately touched Ms. Hansen, including putting her  
25 in a headlock. Defendants admit that RUI ONE Corp. management also received  
26 reports that Mike Bryan used profanity and abusive language. Defendants deny

1 the specific allegations in paragraph 4.22 regarding language used by Mike Bryan  
2 or Plaintiff on March 23, 2004 for lack of information or knowledge.

3 4.23 Defendants admit that RUI ONE Corp. management received  
4 reports that Mike Bryan used abusive language towards Plaintiff on March 23,  
5 2005. Defendants deny the allegations of specific language used by Mike Brian  
6 contained in paragraph 4.23 due to lack of information or knowledge.

7 4.24 Defendants admit that RUI ONE Corp. management received  
8 reports that another member of the Palisade staff entered the kitchen and as a  
9 result Mr. Bryan let go of Plaintiff. Defendants admit that RUI ONE Corp.  
10 management received reports that an altercation occurred between this other  
11 kitchen staff member and Mr. Bryan. Defendants deny the remainder of the  
12 allegations in paragraph 4.24 for lack of information or knowledge.

13 4.25 Defendants admit that Plaintiff reported the incident with Mr. Bryan  
14 to Kraig Hansen and to Shari Spurgeon, the General Manager of Palisade  
15 Restaurant. Defendants deny the remainder of the allegations in paragraph 4.25  
16 for lack of information or knowledge.

17 4.26 Defendants admit that it has no information indicating that any  
18 employee of RUI ONE Corp. telephoned the police regarding the incident between  
19 Mr. Bryan and Plaintiff. Defendants deny the remainder of the allegations in  
20 paragraph 4.26.

21 4.27 Defendants deny that Plaintiff lost wages due to the altercation with  
22 Mike Bryan. Defendants deny that Plaintiff was out of work due to the altercation  
23 with Mike Bryan. Defendants deny the remainder of the allegations in paragraph  
24 4.27 for lack of information or knowledge.

25 4.28 Defendants admit that on March 24, 2005, Plaintiff met with Shari  
26 Spurgeon regarding the incident involving Mike Bryan. Defendants admit that Ms.

1 Spurgeon may have described Mike Bryan's behavior as "bizarre" or used words  
2 to that effect. Defendants deny the remainder of the allegations in paragraph 4.28  
3 for lack of information or knowledge.

4 4.29 Defendants admit that Ms. Spurgeon told Plaintiff that RUI ONE  
5 Corp. would be investigating the incident with Mr. Bryan. Defendants admit that  
6 Ms. Spurgeon may have described Mike Bryan's behavior as "bizarre" or used  
7 words to that effect. Defendants deny the remainder of the allegations in  
8 paragraph 4.29.

9 4.30 Defendants deny the allegations contained in the first and last  
10 sentences of paragraph 4.30 for lack of information or knowledge. Defendants  
11 deny the remainder of the allegations in paragraph 4.30.

12 4.31 Defendants admit that Plaintiff made a report to the Seattle Police  
13 regarding the altercation with Mike Bryan. Defendants deny the remaining  
14 allegations in paragraph 4.31 for lack of information or knowledge.

15 4.32 Denied for lack of information or knowledge.

16 4.33 Defendants admit that after the March 23, 2005 incident with Mike  
17 Bryan, Plaintiff's hours increased at Cutters Bayhouse. Defendants deny the  
18 remainder of the allegations in paragraph 4.33.

19 4.34 Denied for lack of information or knowledge.

20 4.35 Defendants admit that in April, 2005 Chef Kraig Hansen was  
21 transferred to Palisade. Defendants admit that James Robinson was a sous chef  
22 at Cutters Bayhouse during this time period. Defendants deny the remainder of  
23 the allegations in Paragraph 4.35 for lack of information or knowledge.

24 4.36 Defendants admit that Plaintiff complained to Jennifer Perkins,  
25 General Manager of Cutters Bayhouse, regarding comments allegedly made by  
26 James Robinson. Defendants deny that the reason Plaintiff was not promoted to



1 the position of line lead was pretextual. Defendants deny the allegations  
2 contained in the second sentence of paragraph 4.36 for lack of information or  
3 knowledge.

4 4.37 Defendants admit that Jennifer Perkins, General Manager at Cutters  
5 Bayhouse, met with Plaintiff to discuss the outcome of her investigation into  
6 Plaintiff's complaint regarding James Robinson. Defendants admit that Ms.  
7 Perkins gave Plaintiff a copy of the memorandum in which Ms. Perkins  
8 summarized the conclusions of her investigation. Ms. Perkins cannot recall  
9 whether other members of management met with her and Plaintiff to discuss the  
10 outcome of her investigation or whether anyone read the summary memorandum  
11 out loud. Jennifer Perkins' memorandum to Plaintiff speaks for itself. Defendants  
12 deny the remainder of the allegations in paragraph 4.37.

13 4.38 Jennifer Perkins' memorandum to Plaintiff speaks for itself. The  
14 remainder of the allegations in paragraph 4.38 are denied.

15 4.39 Defendants deny the allegations in paragraph 4.39 for lack of  
16 information or knowledge.

17 4.40 Defendants deny the first sentence of paragraph 4.40 for lack of  
18 information or knowledge. Defendants deny the remainder of the allegations in  
19 paragraph 4.40.

20 4.41 Denied for lack of information or knowledge.

21 4.42 Defendants admit that Plaintiff requested and received a transfer to  
22 the front of the restaurant as a cocktail waitress. Defendants deny the remainder  
23 of the allegations in paragraph 4.2 for lack of information or knowledge.

24 4.43 Denied for lack of information or knowledge.

25 4.44 Denied.



1 4:45 Defendants deny the allegations in paragraph 4.45 for lack of  
2 information or knowledge.

3 4.46 Denied for lack of information or knowledge.

4 4.47 Denied.

5 4.48 Admitted.

6 4.49 Denied.

7 **V. CLAIM ALLEGATIONS**

8 5.1 Denied.

9 5.2 Denied.

10 5.3 Denied.

11 5.4 Denied.

12 5.5 Denied.

13 5.6 Denied.

14 5.7 Denied.

15 5.8 Denied.

16 5.9 Denied.

17 5.10 Denied.

18 5.11 Denied.

19 **VI. REQUEST FOR RELIEF**

20 Paragraphs 6.1 through 6.8 contain no factual allegations that require a  
21 response; however, Defendants deny that Plaintiff is entitled to the relief  
22 requested in the Complaint, or to any other relief.

23 **VI. AFFIRMATIVE DEFENSES.**

24 1. Plaintiff has failed to state a claim for retaliation.

2. Plaintiff's damages, if any, were proximately caused by Plaintiff's own negligence and/or actions or inaction, which conduct bars or reduces Plaintiff's damages.

3. Plaintiff's gender discrimination claims are subject to the Faragher/Elzerth affirmative defense.

4. Certain of Plaintiff's claims may be barred by the applicable statutes of limitations.

5. Plaintiff has failed to state any claims against Restaurants Unlimited, Inc., and this action should proceed solely against Plaintiff's true employer.

6. Plaintiff's damages should be denied or limited to the extent that Plaintiff has failed to mitigate her damages.

7. Defendants reserve the right to add additional affirmative defenses as discovery proceeds.

**PRAYER FOR RELIEF**

**WHEREFORE**, Defendants pray for relief as follows:

1. For dismissal of Plaintiff's complaint with prejudice;

2. For costs and reasonable attorneys' fees to the maximum extent permitted by law; and

3. That the Court grant such other and further relief as it deems just and equitable.

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2 DATED this 11th day of February, 2008.

3 RIDDELL WILLIAMS P.S.

4  
5 By   
6 Karen F. Jones, WSBA #14987  
7 Rebecca L. Andrews, WSBA #36035  
8 Attorneys for Defendants  
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CERTIFICATE OF SERVICE

I, Janine Fader, hereby certify that on the 11<sup>th</sup> day of February, 2008, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

- **Rebecca Andrews**  
randrews@riddellwilliams.com,jponikvar@riddellwilliams.com,jfader@riddellwilliams.com
- **Andrea Brenneke**  
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- **Joseph R Shaeffer**  
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DATED this 11<sup>th</sup> day of February, 2008.

s/Janine Fader  
Janine Fader